

KIRKPATRICK & LOCKHART

1500 OLIVER BUILDING
PITTSBURGH, PENNSYLVANIA 15222-5379

TELEPHONE (412) 355-6500
RCA TELEX 244859
FACSIMILE (412) 355-6501
FACSIMILE (412) 355-6461

BOSTON, MA
HARRISBURG, PA
MIAMI, FL
WASHINGTON, D.C.

PETER J. KALIS
(412) 355-6562

October 5, 1989

Mr. Robert E. Layton, Jr., P.E.
Regional Administrator
Region VI
United States Environmental
Protection Agency
1445 Ross Avenue
Dallas, Texas 75202

Re: Fansteel Inc., Muskogee, Oklahoma, Facility

Dear Mr. Layton:

In the recent past, representatives of my client, Fansteel Inc., met in Dallas with Environmental Protection Agency personnel to discuss possible investigation and remedial approaches with respect to a release to the environment caused by a liner failure on June 18, 1989, at Fansteel's Muskogee, Oklahoma, facility. At a meeting attended by Messrs. Staves, Dodgen, and Broyles of the Emergency Response Branch and Mr. Pettigrew of ATSDR, it was suggested to Fansteel that we write to you directly to propose an investigation and remedial approach to the aforementioned liner failure problem. We later met with EPA Attorney Barbara Luke and Ms. Cecilia Kernodle, an EPA water program specialist, to discuss the same problem, and we informed them that we had accepted the advice of their CERCLA counterparts to write to you directly. At both meetings, a representative of the Nuclear Regulatory Commission was present.

At the outset, it may be useful to point out that the Fansteel, Muskogee, facility is not regulated under the Resource Conservation and Recovery Act because of its exemption therefrom by the so-called Beville Amendment. Instead, the Muskogee facility operates under a license issued by the Nuclear Regulatory Commission.

When the liner failure was discovered on June 18, the State and Federal Response Centers were notified immediately and all appropriate steps were taken to confine the release to the extent possible. However, by that time there had already been a release to the environment and to the Arkansas River, the consequences of which we have subjected to significant



195719

KIRKPATRICK & LOCKHART

Robert E. Layton, Jr., P.E.
October 5, 1989
Page 2

analysis which is continuing. At our recent meetings in Dallas with the aforementioned EPA personnel, we orally summarized our findings to date and suggested that we be permitted to develop an outline of an investigation and remediation work plan for agency approval.

For your information, we have enclosed an outline of a work plan which we believe represents a practical and responsible response to the release to the environment resulting from the liner failure. Before full development of the work plan, we would appreciate the opportunity of returning to Dallas for a discussion with you and/or any of your designees to discuss the proposed work plan in detail. At that time, we would be pleased to answer any additional questions that you and your colleagues may have and to commit to a timetable by which the final work plan would be submitted to you for agency approval.

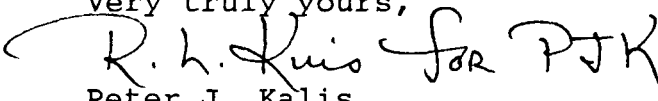
Let me emphasize, if I may, that Fansteel reported this release to the environment immediately and, at its own initiative, set up meetings with CERCLA and water personnel in your offices. We believe that the Company's behavior to date evidences its willingness to undertake a thorough and proportionate investigation and remedial response to the problems arising from the liner failure. Because of the necessity of shaping that response consistent with the EPA's own analysis, we have undertaken to commence this dialogue and hope that you will choose to continue it by honoring our request for a meeting in Dallas at your convenience or the convenience of your designees.

We should also mention that, consistent with our other statutory responsibilities, we are conducting similar dialogues with the Nuclear Regulatory Commission and the Oklahoma Water Resources Board, and would suggest that representatives of these agencies be invited to the Dallas meeting as well.

KIRKPATRICK & LOCKHART

Robert E. Layton, Jr., P.E.
October 5, 1989
Page 3

At your earliest convenience, we look forward to a response to our proposal for a meeting to discuss a suitable work plan for further study and remediation of the Muskogee site.

Very truly yours,

Peter J. Kalis

PJK:dk
Enclosure

cc: Charles A. Gasda
Betty Williamson
Ragan Broyles
David Dodgen
James Stares
Barbara Luke
Cecilia Kernodle
George Pettigrew
(all w/encl.)